

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

CHARLES LEE RANDOLPH,
Petitioner,
v.

WILLIAM GITTERE, *et al.*,
Respondents.

Case No. 3:08-cv-00650-LRH-CLB

ORDER

On September 30, 2021, in this capital habeas corpus action, brought by Charles Lee Randolph, represented by court-appointed counsel, the Court set a schedule for the parties to provide supplemental briefing regarding a motion by Randolph seeking disclosure of certain materials by the respondents. See Petitioner's Motion (ECF No. 89); Order entered September 30, 2021 (ECF No. 98). The Court's order included a provision directing the parties to jointly create a spreadsheet showing which of the materials requested by Randolph are available, and briefly stating the parties' positions with respect to the materials. See Order entered September 30, 2021 (ECF No. 98).

On October 29, 2021, Randolph filed his supplement in support of his motion for disclosure, as ordered in the September 30 order (ECF No. 99). Respondents filed their response on December 28, 2021 (ECF No. 100). Randolph was then due to file a reply by January 18, 2022. See Order entered September 30, 2021 (ECF No. 98).

On January 14, 2022, Randolph filed a motion for extension of time (ECF No. 101). In that motion, Randolph contends that Respondents' response does not comply with the Court's September 30 order, and he requests that the time for his reply be

1 extended to twenty days after Respondents comply. Randolph did not respond to the
2 motion for extension of time.

3 The Court has reviewed the supplemental briefing so far filed. With respect to
4 materials in the possession of the Las Vegas Metropolitan Police Department ("Metro"),
5 Respondents stated in their December 28 response:

6 Respondents received a late response from Metro concerning the
7 Court's order at ECF No. 98. Counsel for Respondents learned that Metro
has an indexed binder, which has not yet been provided.

8 Counsel for Metro has forwarded a list of the reports that Metro has
9 available. That list is attached as Exhibit #2. The delay in forwarding the
10 binder index to Counsel is due to the fact that Counsel for Metro was out
11 of the office due to COVID during a period of the time the Court provided
for Respondents to compile the information. Since Metro's Counsel was
quarantined, he was unable to access the binder.

12 [Footnote: Should the Court request a declaration from Metro's
13 counsel, Respondents will obtain a declaration upon request from the
Court. Per Metro, the tapes (if available) would also be in the vault and
would not be available to be turned over, as they are evidence.]

14 Respondents' Counsel discussed this matter with Randolph's
15 Counsel and will supplement to Randolph's counsel any addition items
received.

16 Response to Court's Order (ECF No. 100), p. 2. Respondents have not fully completed
17 their portion of the joint spreadsheet; most glaringly, it appears that Respondents did
18 not include on the spreadsheet the information referred to in the part of their response
19 quoted above—that is, the materials referred to in Metro's indexed binder and the
20 materials referred to in the list of reports provided by Metro. Respondents will be given
21 an opportunity to supplement their response, including the joint spreadsheet, before
22 Randolph is required to file his reply.

23 The Court will, therefore, grant Randolph's motion for extension of time, and will
24 set a schedule for Respondents to file a supplemental response, including a fully
25 completed joint spreadsheet, and for Randolph to file his reply. *The Court will not further*
26 *extend this briefing schedule.* In his reply, Randolph should include any argument that
27 Respondents have not complied with the September 30 order (ECF No. 98), and the
28 Court will take any such argument into account in ruling on his motion (ECF No. 89).

1 **IT IS THEREFORE ORDERED** that Petitioner's Motion for Extension of Time
2 (ECF No. 101) is **GRANTED**. Respondents will have 14 days from the date of this order
3 to file a supplement to their response to Court's September 30 order (ECF No. 98), as
4 described above. Petitioner will then have 20 days to file their reply.

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6 DATED THIS 1st day of February, 2022.

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9 LARRY R. HICKS
10 UNITED STATES DISTRICT JUDGE
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